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LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

NOTIFICATION

No. LAW 51 LCA 75, Bangalore, dated 16th July 1975.

Ordered that the Maintenance of Internal Security (Second Amendment) Ordinance 1975 (No. 7 of 1975) published in Part II–Section 1 of the *Gazette of India* Extraordinary, dated 15th July 1975 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,
Under Secretary to Government,
Department of Law and Parliamentary Affairs.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 15th July, 1975/Asadha 24, 1897 (Saka)

THE MAINTENANCE OF INTERNAL SECURITY (SECOND AMENDMENT) ORDINANCE, 1975

No. 7 of 1975

Promulgated by the President in the Twenty-sixth Year of the Republic of India

An Ordinance further to amend the Maintenance of Internal Security Act, 1971

Whereas a grave emergency exists whereby the security of India is threatened by external aggression and internal disturbance ;

And whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action ;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. Short title and commencement.—(1) This Ordinance may be called the Maintenance of Internal Security (Second Amendment) Ordinance, 1975.

(2) Section 6 shall be deemed to have come into force on the 25th day of June, 1975 and the remaining provisions of this Ordinance shall be deemed to have come into force on the 29th day of June, 1975.

2. Amendment of Section 4.—In Section 4 of the Maintenance of Internal Security Act, 1971 (26 of 1971) (hereinafter referred to as the principal Act), for the words and figures " Code of Criminal Procedure, 1898 ", (5 of 1898), the words and figures "Code of Criminal Procedure, 1973 (2 of 1974) " shall be substituted.

3. Amendment of Section 7.—In Section 7 of the principal Act,—

(a) in clause (a) of sub-section (1), for the words and figures " Presidency Magistrate or a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides ; and thereupon the provisions of Sections 87, 88 and 89 of the Code of Criminal Procedure, 1898 (5 of 1898)", the words, figures and brackets "Metropolitan

Magistrate or a Judicial Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of Sections 82 to 86 (both inclusive) of the Code of Criminal Procedure, 1973 (2 of 1974" shall be substituted.

(b) in sub-section (2), for the words and figures "Code of Criminal Procedure, 1898 (5 of 1898)", the words and figures "Code of Criminal Procedure, 1973 (2 of 1974)" shall be substituted.

4. Amendment of Section 15.—In Section 15 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) If the appropriate Government has reason to believe that any person who has failed to surrender himself in the manner specified in sub-section (3) has absconded or is concealing himself, that Government may make a report in writing of the fact to a Metropolitan Magistrate or a Judicial Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides and thereupon the provisions of Sections 82 to 86 (both inclusive) of the Code of Criminal Procedure, 1973, (2 of 1974) shall apply in relation to such person as they apply in relation to a person who has absconded or is concealing himself so that a warrant issued by the Magistrate cannot be executed."

5. Amendment of section 16A.—In section 16A of the principal Act, inserted therein by the Maintenance of Internal Security (Amendment) Ordinance, 1975 (Ordinance 4 of 1975),—

(a) in sub-section (2), for the words "every person against whom an order of detention was made", the words and brackets "every person (including a foreigner) against whom an order of detention was made under this Act" shall be substituted;

(b) in sub-section (3), after the words "an order of detention under this Act against any person", the brackets and words "(including a foreigner)" shall be inserted;

(c) for sub-sections (6) and (7), the following sub-sections shall be substituted, namely:—

'(6) In the case of every person detained under a detention order to which the provisions of sub-section (2) apply, being a person the review of whose case is pending

under that sub-section or in respect of whom a declaration has been made under that sub-section,—

(i) sections 8 to 12 shall not apply; and

(ii) section 13 shall apply subject to the modification that the words and figures "which has been confirmed under section 12" shall be omitted.

(7) In the case of every person detained under a detention order to which the provisions of sub-section (3) apply, being a person in respect of whom a declaration has been made under that sub-section,—

(i) section 3 shall apply subject to the modification that for sub-sections (3) and (4) thereof, the following sub-section shall be substituted, namely:—

"(3) When any order of detention is made by a State Government or by an officer subordinate to it, the State Government shall, within twenty days, forward to the Central Government a report in respect of the order.";

(ii) sections 8 to 12 shall not apply; and

(iii) section 13 shall apply subject to the modification that the words and figures "which has been confirmed under section 12" shall be omitted.'.

6. Insertion of new section 18.—Section 18 of the principal Act shall be re-numbered as Section 19 thereof and before that section as so re-numbered, the following section shall be inserted, namely:—

"18. Exclusion of common law or natural law rights, if any.—No person (including a foreigner) detained under this Act shall have any right to personal liberty by virtue of natural law or common law, if any.".

7. Saving.—Anything done or any action taken under the principal Act, as amended by the Maintenance of Internal Security (Amendment) Ordinance, 1975 (Ordinance 4 of 1975.) shall be deemed to have been done or taken under the principal Act as amended by that Ordinance and this Ordinance.

FAKHRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secy. to the Govt. of India.

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